



STATE MINING AND GEOLOGY BOARD

EXECUTIVE OFFICER'S REPORT

For Meeting Date: September 12, 2002

Item 5 – Hearing of an Order to Cease and Desist All Surface Mining Operations Issued July 11, 2002, to Diamond Quarry, CA Mine ID #91-09-0003, Loring Brunius, Owner & Operator, El Dorado County, for Failure to Provide a Financial Assurance in Sufficient Amount and Acceptable Instrument to Reclaim the Diamond Quarry in Accordance with the Requirements of the Quarry's Approved Reclamation Plan

BACKGROUND: At its regular business meeting on March 27, 2002, the State Mining and Geology Board (SMGB) determined to issue to Diamond Quarry (Quarry) a Notice of Violation (NOV) pursuant to Public Resources Code (PRC) §2774.1 The NOV cited the Quarry's failure to correct six long standing violations of the operator's reclamation plan, as well as its failure to maintain an adequate financial assurance as required by the Surface Mining and Reclamation Act of 1975.

According to the NOV, which was received by the operator's agent on April 1, 2002, the operator was provided 30 days from receipt of the NOV in which to correct the cited deficiencies or the operator may be subject to an Order to Comply from the SMGB.

On May 9, 2002 at its regular business meeting, the SMGB adopted findings that the Quarry was continuing to operate out of compliance and in violation of its reclamation plan, El Dorado County Code Chapter 8.36, and the requirements of the Surface Mining and Reclamation Act of 1975.

Based on the operator's lack of response to the NOV and the hearing on May 9, 2002, the SMGB at its regular business meeting on July 11, 2002 issued to the Quarry pursuant to its authority under PRC §2774.1 an *Order to Cease and Desist All Surface Mining Operations at Diamond Quarry*. The Order's effective date is September 12, 2002 at 6:00 P. M. The Order was received by the Quarry's agent on July 17, 2002. The SMGB office had received no response from the Quarry at the time of the preparation of this report.

In addition to this Order, the Quarry is subject to the following Orders issued by the SMGB;

- July 20, 2001, Order to Comply: ordered to correct violations
- August 16, 2001, Administrative Penalty for failure to comply with July 20th Order; penalty amounts accruing;
- December 13, 2001, Administrative Penalty for failure to maintain an adequate financial assurance; penalty amounts accruing

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ACTION OF THE BOARD: Pursuant to PRC §2774.1(b) an Order issued by the SMGB, as acting SMARA lead agency for the Quarry, does not become effective until the operator has been provided a hearing before the Board to provide the operator, and any other interested person, an opportunity to address the alleged violations. The Board will conduct a hearing on this issue, and make a determination to uphold the Order, to re-issue the Order, or to rescind the Order.

EXECUTIVE OFFICER'S RECOMMENDATION: The Executive Officer recommends that the SMGB uphold its *Order to Cease and Desist All Surface Mining Operations at Diamond Quarry* for the Quarry's failure to provide an adequate financial assurance as cited in the Notice of Violation dated March 27, 2002. The operator has not to the satisfaction of the Board corrected the noticed violation, or responded to any of the SMGB's notices.

SUGGESTED MOTION LANGUAGE:

To uphold the Order:

Mr. Chairman, in light of the information before the Board today, and the information that has been presented to the SMGB on March 14, 2002, May 9, 2002, and July 11, 2002, I move that the Board uphold its July 11, 2002 Order to Cease and Desist All Surface Mining Operations at Diamond Quarry issued to Diamond Quarry pursuant to the requirements of Public Resources Code §2774.1, and that the Order becomes effective as of 6:00 P. M. on this date, Thursday, September 12, 2002.